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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

CLIFFORD BARCHEERS,)	Case No. <u>CV-21-62-BLG-SPW-TJC</u>
)	
Plaintiff,)	
)	
v.)	
)	PLAINTIFF'S COMPLAINT AND
YUSKEL YUSKEL, RS HARRIS)	DEMAND FOR JURY TRIAL
TRANSPORT LTD., TODDY)	
CHIFURA, and CHIFURA EXPRESS)	
LINES, LLC,)	
)	
Defendants.)	
)	

INTRODUCTION

This action seeks redress for personal injuries sustained by Plaintiff when Defendants Yuskel Yuskel and Toddy Chifura negligently operated semi-trucks while in the employ of the other named Defendants and caused a pile up crash in Stillwater County, Montana. Count I alleges negligence. Count II alleges negligence *per se*. Plaintiff Clifford Barcheers alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Clifford Barcheers is a resident of Texas.
2. Defendant Yuskel Yuskel is Canadian resident that may be served through the Hague Convention at 6681 Cheshire Court, Burnaby, BC V5E4J2.
3. Defendant RS Harris Transport Limited is a Canadian company that may be served through the Hague at 555 Hervo Street, Unite 15, Winnipeg, MB R3T 3L6 Canada.
4. Defendant Toddy Chifura is a New Jersey resident that may be served by personal delivery to 67 Scofield Street, Newark, NJ 07106.
5. Defendant Chifura Express Lines, LLC is a New Jersey company that may be served through its principal Toddy Chifura at 67 Scofield Street, Newark, NJ 07106.
6. Plaintiff alleges the amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

7. Accordingly, Plaintiff alleges this court has jurisdiction over the parties and this matter by virtue of 28 U.S.C. § 1332. Venue is proper in the Billings Division pursuant to L.R. 1.2(c)(5).

STATEMENT OF FACTS

8. This lawsuit arises out of multiple collisions that occurred on February 7, 2021 in Stillwater County, Montana. At that time and place, Defendant Yuskel was operating a semi-truck/trailer combination while in the course and scope of his employment for Defendant RS Harris Transport, Ltd. The truck and trailer combination was owned by Defendant RS Harris Transport, Ltd. At that time and place, Defendant Chifura was operating s semi-truck/trailer combination while in the course and scope of his employment for Chifura Express Lines, LLC. The truck trailer combination was owned by Chifura Express Lines, LLC.

9. Defendant Yuskel was operating the combination semi-truck and trailer westbound on Interstate 90. He approached a vehicle that was stopped on the Interstate. He approached too fast, jack-knifed, and struck the vehicle ahead of him. Similarly, Defendant Chifura, approaching too quickly, jack-knifed and struck the traffic ahead of him. Attempting to avoid this, Plaintiff crashed into a guardrail as he approached.

10. Defendants Yuskel and Chifura were negligent in the operation of their employers' semi-trucks. Defendants RS Harris Transport, Ltd. and Chifura Express

Lines, LLC are vicariously liable for Defendant Yuskel and Chifura's actions.

11. As a result of the collision, Plaintiff was injured.

COUNT I—Negligence

Plaintiff realleges and incorporates by reference herein each and every allegation set forth above and, in addition thereto, allege the following:

12. Although Defendants owed Plaintiff a duty to use reasonable care in the operation and control of their semi-trucks, they failed to ensure such operation in a reasonable and prudent manner taking into account all conditions and requirements and were therefore negligent.

13. Defendants Yuskel and Chifura's negligence includes but is not limited to:

- a. Failing to control speed;
- b. Failing to brake properly;
- c. Failing to keep a proper lookout;
- d. Failing to stay in his lane of traffic;
- e. Driving carelessly or recklessly in light of all conditions including the state of his own truck; and
- f. Driving inattentively.

14. As a direct and proximate result of Defendants' negligence, Plaintiff has suffered and continues to suffer bodily injury, and has sustained and will sustain in the future medical expenses, pain and suffering, disfigurement, loss of established

course of life, mental anguish, physical impairment, property damage, out-of-pocket expenses and other associated damages and compensable injuries.

15. Defendants RS Harris Transport, Ltd. and Chifura Express Lines, LLC are liable for the negligent conduct of Defendants Yuskel and Chifura respectively by virtue of respondeat superior.

COUNT II—Negligence *Per Se*

Plaintiff realleges and incorporates by reference herein each and every allegation set forth above and, in addition thereto, allege the following:

16. Because the acts of negligence listed above amount to violations of the Montana Code Annotated and/or Federal Motor Vehicle Safety Standards and/or the Federal Motor Carrier Safety Act, Plaintiff further asserts that the Defendants were negligent *per se* as a matter of law. Each of the above-described legal codes was enacted to protect the operators and passengers of motor vehicles from the types of harm Plaintiff has suffered. Defendants, as drivers and commercial trucking companies, are part of the classes of persons regulated by these legal codes. Thus, Defendants were negligent *per se*.

17. As a direct and proximate result of Defendants' negligence, Plaintiff has suffered and continues to suffer bodily injury, and have sustained and will sustain in the future medical expenses, pain and suffering, disfigurement, loss of

established course of life, mental anguish, physical impairment, property damage, out-of-pocket expenses and other associated damages and compensable injuries.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For all general, special and compensatory damages in an amount to be proved at trial but in an amount not less than \$1.1 million.
2. For all costs and expenses of suit as allowed by law.
3. For attorney's fees as allowed by law.
4. For pre- and post-judgment interest at the legal rate
5. For such further and additional relief which seems just and equitable to the Court.

JURY DEMAND

Plaintiff hereby demands a jury trial.

DATED this 2nd day of June 2021.

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